



## POLICE DEPARTMENT

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In the Matter of the Disciplinary Proceedings :

- against - :

FINAL

Police Officer Yonathan Bonifacio :

ORDER

Tax Registry No. 946668 :

OF

Quartermaster Section :

DISMISSAL  
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Police Officer Yonathan Bonifacio, Tax Registry No. 946668, having been served with written notice, has been tried on written Charges and Specifications numbered 2020-22670, as set forth on form P.D. 468-121, dated April 30, 2021 (amended October 15, 2021), and after a review of the entire record, Respondent is found Guilty of the charged misconduct.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Yonathan Bonifacio from the Police Service of the City of New York.

DERMOT F. SHEA  
POLICE COMMISSIONER

EFFECTIVE:

12/16/21

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POLICE DEPARTMENT

November 17, 2021

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In the Matter of the Charges and Specifications	:	Case No.
- against -	:	2020-22670
Police Officer Yonathan Bonifacio	:	
Tax Registry No. 946668	:	
Quartermaster Section	:	

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At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Josh Kleiman  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For the Respondent: Craig Hayes, Esq.  
Worth, Longworth and London, LLP  
111 John Street, Suite 640  
New York, NY 10038

To:

HONORABLE DERMOT F. SHEA  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Police Officer Yonathan Bonifacio, while a Probationary Sergeant in the 46 Precinct, on or about and between August 1, 2020, and August 31, 2020, on two occasions, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department by displaying offensive racial material by text messages through an electronic or other device, to wit: (1) George Floyd/Derek Chauvin cartoon/drawing and (2) pictures with statements: "Fuck 'Black Lives Matter'" and "Fuck Looting Hoodrats." (*As amended.*)  
P.G. 205-37

SEXUAL, ETHNIC, RACIAL,  
RELIGIOUS, OR OTHER  
DISCRIMINATORY SLURS THROUGH  
DISPLAY OF OFFENSIVE MATERIAL  
PERSONNEL MATTERS  
PUBLIC CONDUCT – PROHIBITED  
CONDUCT  
GENERAL REGULATIONS

P.G. 203-10, Page 1, Paragraph 5

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 15, 2021. Respondent, through his counsel, entered a plea of Guilty to the subject charge. Respondent testified on his own behalf in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find that no mitigation is warranted, and recommend that Respondent be DISMISSED from the New York City Police Department.

## SUMMARY OF EVIDENCE IN MITIGATION

On two separate occasions, in August 2020, Respondent, a supervisor at the time,<sup>1</sup> forwarded highly offensive material to a WhatsApp text message group composed of nine of his subordinates, two of which were African-American. The first image (Dept. Ex. 1), a drawing,

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<sup>1</sup> In April 2020, Respondent was demoted from the rank of Sergeant to the rank of Police Officer in connection with this disciplinary matter.



depicts Former Minneapolis Police Officer Derek Chauvin kneeling on the neck of George Floyd. A white spirit depicted leaving Mr. Floyd's body is accompanied by the words "Holy shit Im finally white." Above Former Minneapolis Police Officer Chauvin appear the words, "You're welcome." Several days later, Respondent sent another offensive image via text message to the same group of subordinates. The second image (Dept. Ex. 2) contained the following words displayed in bold white capital letters on a black background: "FUCK 'BLACK LIVES MATTER', FUCK ANTIFA, FUCK KKK, FUCK RACISM, FUCK LOOTING HOODRATS, FUCK ANYONE WHO BURNS OUR FLAG." Both images were sent without further comment. Approximately one month later, one of the two African-American members of the text message group made a formal complaint concerning Respondent's conduct to the Department's Equal Employment Opportunity Division. (Tr. 6-9, 46)

At his mitigation hearing, Respondent explained that the purpose of the text message group was to "keep developing that closeness that we had with each other." Respondent, a Dominican-American, readily admitted that the images are highly offensive and expressed remorse for his actions. Respondent claimed that he sent Department Exhibit 1 while he was [REDACTED]. He claimed that he intended to comment on the image because he found it to be highly offensive, but did not have the opportunity (Tr. 36-37 ["I never got a chance to actually say what I thought in my head. This is messed up . . . [and] should not be out there."]). As for Department Exhibit 2, Respondent explained "we were very upset" and this image was targeted at "anything that promotes hate," so "I saw it, and I forwarded it, and that's all I did." Respondent claimed he was unfamiliar with the term "hoodrats." (Tr. 26, 33-38, 49, 54, 57-58)

While the Tribunal finds Respondent's expression of remorse concerning his actions to be credible, it does not credit Respondent's after-the-fact explanation for sending Department

Exhibit 1 to his subordinates. Under the totality of the circumstances, it is not plausible that Respondent, believing Department Exhibit 1 to be highly offensive, would send it to a group of his subordinates, knowing the group to contain members of a protected class targeted by the offensive content, and, yet, fail to provide any disclaimer or explanation. Furthermore, it is reasonable for the recipient of these images to believe that Respondent intended to communicate the expressive content contained in them.

Department Exhibit 1, depicting the murder of George Floyd, is shockingly offensive. It overtly targets race, degrading the value of both the life of George Floyd and blacks generally, and exalts the value of white lives over those of black lives. It further depicts a police officer endorsing this overtly racist value judgment. The timing of Respondent's display of Department Exhibit 1 to his subordinates and its content is also striking. Respondent sent the images to his subordinates in August 2020, three months after the death of George Floyd, and in the midst of a summer of mass protests across the Nation. Respondent's dissemination of the image at this time to his subordinates, two of whom were African-American, was akin to tossing a lit match at the base of a powder keg. Accordingly, Respondent's actions, in connection with Department Exhibit 1, demonstrated exceedingly poor judgment and a disrespect for human life that is reprehensible and incompatible with police work.

Respondent, in posting Department Exhibit 2, again associated himself with racially offensive statements, specifically: "FUCK 'BLACK LIVES MATTER'" and "FUCK LOOTING HOODRATS." In the summer of 2020, Black Lives Matter frequently organized protests in the wake of the murder of George Floyd, often resulting in clashes with the police. "Hoodrats" is an offensive and racially-charged term directed at persons living in lower-income public housing. In New York City, such housing overwhelmingly serves people of color. In posting these statements, Respondent risked dividing his subordinates based on viewpoint and race (*see*



*Disciplinary Case No. 73662/98* [Oct. 10, 1998] [“A police officer’s participation in this racially inflammatory behavior can not help but endanger working relationships among officers of different ethnic backgrounds, who must pull together in order to help others and to ensure their own safety.”]. Furthermore, in associating himself with these statements without qualification, after transmitting the offensive drawing of Mr. Floyd’s murder, Respondent further risked his expression being understood as devaluing the lives of black persons.

Respondent ignored his training and eschewed Department policy in making these posts in contravention of strict Department policy prohibiting the display of “offensive sexual, ethnic, racial, religious or other discriminatory material” (P.G. 205-37, *Sexual, Ethnic, Racial, Religious, or Other Discriminatory Slurs Through Display of Offensive Material*). In associating himself with such material in a supervisory capacity, Respondent, by implication, also associated the Department with content that is at war with its values (*see Fire Dep’t v. Steiner & Walters*, OATH Index Nos. 559-60/99 [Oct. 16, 1998] [“‘[R]espondents’ expression of indifference, or worse . . . to the brutal hate crime can only be perceived by an appreciable segment of the community as, at best, disregard for the value of the lives of African-Americans, and, at worst, an endorsement of violence. Such a public statement is ‘not simply hostile to the [employer’s] charge, but . . . at war with it.’”]).

The Disciplinary Guidelines distinguish between two categories of offensive speech applicable here: (1) the “Display of Offensive Material Based on Membership in a Protected Class,” for which the presumptive penalty is twenty (20) vacation days and the aggravated penalty is thirty (30) vacation days, and (2) “Disparaging Remarks Based on Membership in a Protected Class,” for which the presumptive penalty is twenty (20) vacation days and the aggravated penalty is Termination.

“Disparaging Remarks” and the “Display of Offensive Material” target similar misconduct, but distinguish between a “display” and a “remark.” In many instances, however, the difference is one without distinction. For instance, the display of a racial epithet by a person, say on a t-shirt or on a poster being held by them, may be no different than if the racist word(s) had emanated from their own mouth. The display speaks for the speaker. In other instances, however, a display of prohibitively offensive material may be made in a way that separates the expression from the speaker.

Here, the manner in which Respondent disseminated the offensive material is inseparable from the speaker. Respondent caused the expression to be sent from his personal phone to his subordinates without qualification or comment. The fact that Respondent did not create the images himself does not absolve him under these circumstances from association with the content of the images. The Tribunal acknowledges that it is all too common in the era of social media and digital communication to express oneself in the form of memes, animated gifs, avatars, emojis, and other graphical depictions. The fact that such content does not take the form of words emanating from the speaker’s mouth or words written by the speaker’s hands does not absolve the speaker of the communicative content of such images, particularly when sent to supervisees. Accordingly, here, the Tribunal finds that the penalties associated with the EEO category of “Disparaging Remarks Based on Membership in a Protected Class” to more appropriately address Respondent’s conduct.

Respondent, a thirteen-year member of the service, has a positive employment record, including no prior disciplinary history and high evaluations. Ordinarily, a positive employment history can constitute a mitigating factor. Here, however, the Tribunal finds several aggravating factors to be present that under the totality of the circumstances counsel the application of an aggravated penalty in this matter.



First, Respondent was a supervisor messaging racially biased material to a group of subordinates. Supervisory status under such circumstances typically results in the application of aggravated penalties under Department precedent (*see, e.g., Disciplinary Case No. 2019-20395* [August 2, 2021] [Police Commissioner disapproved penalty recommendation noting, “Based on [the Inspector’s] rank, position and role during this particular event I find that the aggravated penalty under the Disciplinary System Penalty Guidelines (“Matrix”) is appropriate in this matter.”])). Second, the timing of the posts, at a time of extraordinary social and political unrest, evidenced exceedingly poor judgement.

Finally, there exist certain acts taken by public officers which so irreparably taint the officer’s integrity that they are no longer capable of fulfilling their duties in a manner that would prevent further damage to the reputation and mission of the agency they serve. A police officer is not only an enforcer of the law, but a recorder and observer of the facts that inform and guide their applications of the law. Police officers, as part of their day-to-day duties, create public records, give testimony whether by way of signed affidavits or court appearances, and hold a position of public trust in the diverse communities in which they serve. Respondent, who has associated himself with undeniably racist and insensitive material, has cast a shadow upon the perceived integrity of his work product and that of the agency he serves. As noted by the court in *Steward v. Leary*, 57 Misc. 2d 792, 793, 293 N.Y.S.2d 573, 574 [Sup. Ct. 1968]:

A police officer plays a unique role in society. He is the guardian of the public safety and is set up as a model to be emulated. He must at all times be free to exercise his judgment in performing his duties and can never act in a manner which would tend to destroy the public’s confidence in his integrity. Not only his official conduct, but the manner in which he conducts himself while not on duty reflects upon his integrity and upon his ability to perform his duties.

Respondent here has engaged in conduct that would “tend to destroy the public’s confidence in his integrity.” Accordingly, it is the determination of this Tribunal that Respondent’s continued



employment would adversely impact the Department and its relationship with the public it serves. "Although no decent person rejoices at the premature ending of a career, which is no doubt a personal tragedy for this man, there is no rational alternative in these circumstances" (*Disciplinary Case No. 73662/98* [Oct. 10, 1998]).

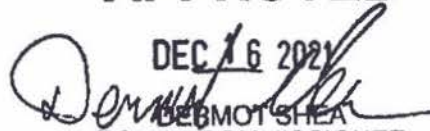
Accordingly, the Tribunal recommends application of the aggravated penalty attendant to the making of Disparaging Remarks Based on Membership in a Protected Class. As such, in accordance with the Disciplinary Guidelines, the Tribunal recommends that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Josh Kleiman  
Assistant Deputy Commissioner Trials

**APPROVED**



DEC 16 2021  
DERMOT SHEA  
POLICE COMMISSIONER



## POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: SUMMARY OF EMPLOYMENT RECORD  
POLICE OFFICER YONATHAN BONIFACIO  
TAX REGISTRY NO. 946668  
DISCIPLINARY CASE NO. 2020-22670

Respondent was appointed to the Department on July 8, 2008. On his three most recent performance evaluations, he received 4.5 overall ratings of “Highly Competent/Extremely Competent” in 2020 and 2021. Respondent has been awarded one medal for Excellent Police Duty.

Respondent has no disciplinary record. In connection with the instant matter, Respondent was demoted from the rank of Probationary Sergeant to the rank of Police Officer on May 1, 2020. He was placed on Level 2 Performance Monitoring on October 16, 2020, and placed on modified assignment on August 9, 2021. Both the monitoring and the modified status remain ongoing.

For your consideration.

Josh Kleiman  
Assistant Deputy Commissioner Trials